

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 40, “Determination of Net Income,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 43, “Assessments and Refunds,” Chapter 46, “Withholding,” Chapter 49, “Estimated Income Tax for Individuals,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 53, “Determination of Net Income,” Chapter 55, “Assessments, Refunds, Appeals,” Chapter 56, “Estimated Tax for Corporations,” Chapter 57, “Administration,” Chapter 59, “Determination of Net Income,” Chapter 60, “Assessments, Refunds, Appeals,” and Chapter 61, “Estimated Tax for Financial Institutions,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXV; No. 2, p. 148, on July 25, 2012, as **ARC 0232C**.

Item 1 amends rule 701—40.9(422) to reference the updated name of the federal alcohol and cellulosic biofuel fuels credit for which a deduction is allowed for Iowa individual income tax.

Items 2 and 3 amend subrule 40.21(3) and the implementation sentence for rule 701—40.21(422) to replace the phrase “mental retardation” with “intellectual disability” related to the deduction available for Iowa individual income tax for businesses that hire certain individuals.

Item 4 amends rule 701—40.58(422) to reflect statutory wording changes related to the exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States for Iowa individual income tax.

Item 5 amends rule 701—40.72(422) to provide that the exclusion of Vietnam Conflict veterans bonuses from Iowa individual income tax does not apply for tax periods beginning on or after January 1, 2013, due to the repeal by the legislature of this provision.

Items 6 and 7 amend subrule 42.11(3) and the implementation sentence for rule 701—42.11(15,422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa individual income tax.

Item 8 amends subrule 42.15(1) to provide additional clarification on how the Iowa child and dependent care credit for Iowa individual income tax is computed.

Item 9 rescinds and reserves subrule 43.3(14) and Item 10 amends the implementation sentence for rule 701—43.3(422) to reflect the repeal of an obsolete refund provision for Iowa individual income tax that affected the 1997 tax year only.

Item 11 updates the implementation sentence for rule 701—43.4(68A,422,456A) which provides that there is no change in the four tax checkoffs that are available for Iowa individual income tax for the 2012 and 2013 tax years.

Item 12 amends rule 701—46.8(260E) to provide that employees for whom the new jobs credit from withholding can be claimed shall not include residents of Illinois who are not subject to Iowa withholding tax due to the Iowa-Illinois reciprocal tax agreement.

Item 13 amends subrule 49.1(2) to change the method of allocating joint estimated payments made by married taxpayers if these taxpayers later elect to file separate returns or to file separately on a combined form for Iowa individual income tax.

Items 14 and 15 amend subrule 52.3(2) and the implementation sentence for rule 701—52.3(422) to provide that domestic corporations incorporated in Iowa must attach a copy of their federal corporation income tax return with the filing of their Iowa corporation income tax return. This change conforms to current Department practice.

Items 16 and 17 amend subrule 52.7(3) and the implementation sentence for rule 701—52.7(422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa corporation income tax. This change is similar to the change in Items 6 and 7.

Item 18 amends rule 701—53.10(422) to reference the updated name of the federal alcohol and cellulosic biofuel fuels credit for which a deduction is allowed for Iowa corporation income tax. This change is similar to the change in Item 1.

Items 19 and 20 amend subrule 53.11(3) and the implementation sentence for rule 701—53.11(422) to replace the phrase “mental retardation” with “intellectual disability” related to the deduction available for Iowa corporation income tax for businesses that hire certain individuals. This change is similar to the change in Items 2 and 3.

Item 21 rescinds and reserves subrule 55.3(6) and Item 22 amends the implementation sentence for rule 701—55.3(422) to reflect the repeal of an obsolete refund provision for Iowa corporation income tax that affected the 1997 tax year only. This change is similar to the change in Items 9 and 10.

Items 23 and 24 amend subrule 56.5(2) and the implementation sentence for rule 701—56.5(422) to provide for a change in the annualized income exception to the underpayment of estimated tax penalty for Iowa corporation income tax.

Items 25 and 26 amend subrule 57.1(2) and the implementation sentence for rule 701—57.1(422) to amend the definition of a financial institution for Iowa franchise tax.

Items 27 and 28 amend subrule 59.8(3) and the implementation sentence for rule 701—59.8(422) to replace the phrase “mental retardation” with “intellectual disability” related to the deduction available for Iowa franchise tax for financial institutions that hire certain individuals. This change is similar to the change in Items 2 and 3.

Item 29 rescinds and reserves subrule 60.3(6) and Item 30 amends the implementation sentence for rule 701—60.3(422) to reflect the repeal of an obsolete refund provision for Iowa franchise tax that affected the 1997 tax year only. This change is similar to the change in Items 9 and 10.

Items 31 and 32 amend subrule 61.5(2) and the implementation sentence for rule 701—61.5(422) to provide for a change in the annualized income exception to the underpayment of estimated tax penalty for Iowa franchise tax. This change is similar to the change in Items 23 and 24.

There have been no substantive changes to the amendments published under Notice of Intended Action. However, corrections were made to subrule 40.72(2) and to the catchwords of rule 701—53.10(422) to make the terminology uniform.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Code Supplement sections 422.10 and 422.33 as amended by 2012 Iowa Acts, House File 2150; 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate Files 2038, 2097, 2247 and 2328; Iowa Code section 422.61 as amended by 2012 Iowa Acts, Senate File 2202; Iowa Code section 260E.2 as amended by 2012 Iowa Acts, Senate File 2212; Iowa Code Supplement section 422.35 as amended by 2012 Iowa Acts, Senate Files 2247 and 2328; Iowa Code sections 422.36 and 422.73; 2011 Iowa Code Supplement section 422.89 as amended by 2012 Iowa Acts, Senate File 2328; and 2012 Iowa Acts, Senate File 2325.

These amendments will become effective October 24, 2012, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

ITEM 1. Amend rule 701—40.9(422) as follows:

701—40.9(422) Work opportunity tax credit and alcohol fuel and cellulosic biofuel fuels credit. Where an individual claims the work opportunity tax credit under Section 51 of the Internal Revenue Code or the alcohol ~~fuel and cellulosic biofuel fuels~~ credit under Section 40 of the Internal Revenue Code, the amount of credit allowable must be used to increase federal taxable income. The amount of credit allowable used to increase federal adjusted gross income is deductible in determining Iowa net income. The work opportunity tax credit applies to eligible individuals who begin work ~~after September 30, 1996, and before September 1, 2011~~ January 1, 2012. The adjustment for the alcohol ~~fuel and cellulosic biofuel fuels~~ credit is applicable for tax years beginning on or after January 1, 1980.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2328.

ITEM 2. Amend paragraph **40.21(3)“b”** as follows:

b. The term “*physical or mental impairment*” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

ITEM 3. Amend rule **701—40.21(422)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2004 2012 Iowa Acts, House Files 287 and 759 Senate File 2247.

ITEM 4. Amend rule 701—40.58(422) as follows:

701—40.58(422) Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States. For tax years beginning on or after January 1, 2002, members of the Iowa national guard or members of military reserve forces of the United States who are ordered to ~~state military service~~ national guard duty or federal ~~service or active~~ duty are not subject to Iowa income tax on the amount of distributions received during the tax year from qualified retirement plans of the members to the extent the distributions were taxable for federal income tax purposes. In addition, the members are not subject to state penalties on the distributions even though the members may have been subject to federal penalties on the distributions for early withdrawal of benefits. Because the distributions described above are not taxable for Iowa income tax purposes, a national guard member or armed forces reserve member who receives a distribution from a qualified retirement plan may request that the payer of the distribution not withhold Iowa income tax from the distribution.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2004 2012 Iowa Acts, House Senate File 2208 2097.

ITEM 5. Amend rule 701—40.72(422) as follows:

701—40.72(422) Exclusion of Vietnam Conflict veterans bonus.

40.72(1) For tax years beginning on or after January 1, 2007, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs, and bonuses of up to \$500 are awarded to residents of Iowa who served on active duty in the armed forces of the United States between July 1, 1973, and May 31, 1975.

40.72(2) For tax years beginning on or after January 1, 2008, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs. Bonuses of up to \$500 are awarded to veterans who were inducted into active duty service from the state of Iowa, who served on active duty in the United States armed forces ~~from~~ between July 1, 1958, ~~through and~~ through May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2008 2012 Iowa Acts, House Senate File 2283 2038.

ITEM 6. Amend paragraph **42.11(3)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 42.11(3)“*b*” and the alternative simplified credit described in paragraph 42.11(3)“*c*,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

ITEM 7. Amend rule **701—42.11(15,422)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code Supplement sections 15.335 and 422.10 as amended by ~~2011~~ 2012 Iowa Acts, Senate House File 542 2150.

ITEM 8. Amend subrule 42.15(1), introductory paragraph, as follows:

42.15(1) *Computation of the Iowa child and dependent care credit.* The Iowa child and dependent care credit is computed as a percentage of the child and dependent care credit which is allowed for federal income tax purposes under Section 21 of the Internal Revenue Code. For taxpayers whose federal child and dependent care credit is limited to their federal tax liability, the Iowa credit shall be computed based on the lesser amount. The credit is computed so that taxpayers with lower adjusted gross incomes (net incomes in tax years beginning on or after January 1, 1991) are allowed higher percentages of their federal child care credit than taxpayers with higher adjusted gross incomes (net incomes). The following is a schedule showing the percentages of federal child and dependent care credits allowed on the taxpayers' Iowa returns on the basis of the federal adjusted gross incomes (or net incomes) of the taxpayers for tax years beginning on or after January 1, 1993.

ITEM 9. Rescind and reserve subrule **43.3(14)**.

ITEM 10. Amend rule **701—43.3(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 421.17, ~~as amended by 2003 Iowa Acts, House File 534, and sections 422.2; and 422.16; and section 422.73 as amended by 2012 Iowa Acts, Senate File 2328.~~

ITEM 11. Amend rule **701—43.4(68A,422,456A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.12D, 422.12E, and 422.12H and ~~2010 Iowa Acts, House File 2531, division XII~~ 2012 Iowa Acts, Senate File 2325.

ITEM 12. Amend rule 701—46.8(260E) as follows:

701—46.8(260E) New job tax credit from withholding. The Iowa industrial new jobs training program is a program administered by the ~~Iowa department of economic development~~ authority for projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industries. For employers that have entered into an agreement with a community college under Iowa Code chapter 260E, a credit equal to 1.5 percent of the wages paid by the employer to each employee covered by the agreement can be taken on the Iowa withholding tax return. If the amount of withholding by the employer is less than 1.5 percent of the wages paid to the employees covered by the agreement, the employer can take the remaining credit against Iowa tax withheld for other employees. An employee does not include a resident of Illinois who earns wages in Iowa since these employees are not subject to Iowa withholding tax in accordance with the Iowa-Illinois reciprocal tax agreement discussed in 701—subrule 38.13(1). The administrative rules for the Iowa industrial new jobs training program administered by the ~~Iowa department of economic development~~ authority may be found in 261—Chapter 5.

This rule is intended to implement Iowa Code section 260E.2 as amended by 2012 Iowa Acts, Senate File 2212, and section 260E.5.

ITEM 13. Amend subrule 49.1(2) as follows:

49.1(2) *Joint estimate payments by married taxpayers.* A husband and wife may make a joint estimate tax payment on one form as if they were one taxpayer. If a joint estimate payment is made, but the husband and wife elect to file separate returns or separately on the combined return form, the estimate tax paid for the tax year by the husband and wife ~~may~~ shall be allocated between the spouses on their returns ~~as the taxpayers choose~~ in the proportion that each spouse's net income not subject to withholding tax relates to the combined net income of both spouses not subject to withholding tax.

ITEM 14. Amend subrule 52.3(2), introductory paragraph, as follows:

52.3(2) *Form for filing—domestic corporations.* A domestic corporation, as defined by Iowa Code subsection 422.32(5), is required to file a complete Iowa return for each year of its existence regardless of whether the corporation has income, loss, or inactivity. For tax periods beginning on or after January 1,

1999, domestic corporations are required to file a complete Iowa return only if they are doing business in Iowa, or deriving income from sources within Iowa. ~~However, the corporation may substitute a copy of the true and accurate federal income tax return as filed with the Internal Revenue Service in lieu of certain Iowa return schedules. This substitution is optional, but in all instances a detailed computation of the federal tax liability actually due the federal government shall be required as a part of the Iowa return. The Iowa schedules subject to the substitution provision are: income statement, balance sheet, reconciliation of income per books with income per return and analysis of unappropriated retained earnings per books. For tax periods beginning on or after July 1, 2012, domestic corporations must also include a true and accurate copy of their federal corporation income tax return as filed with the Internal Revenue Service with the filing of their Iowa return. At a minimum this return includes the following federal schedules: income statement, balance sheet, reconciliation of income per books with income per return, analysis of unappropriated retained earnings per books, dividend income and special deductions, cost of goods sold, capital gains, tax computation and tax deposits, alternative minimum tax computation, and statements detailing other income and other deductions.~~

ITEM 15. Amend rule **701—52.3(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.21 and section 422.36 as amended by 2012 Iowa Acts, Senate File 2328.

ITEM 16. Amend paragraph **52.7(3)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“*b*” and the alternative simplified credit described in paragraph 52.7(3)“*c*,” such amounts are limited to research activities conducted within this state. For purposes of this rule subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

ITEM 17. Amend rule **701—52.7(422)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code Supplement section 422.33 as amended by ~~2011~~ 2012 Iowa Acts, Senate House File 542 2150.

ITEM 18. Amend rule 701—53.10(422) as follows:

701—53.10(422) Work opportunity tax credit and alcohol fuel and cellulosic biofuel fuels credit. Where provided for in the Internal Revenue Code, as detailed below, a deduction shall be allowed for the amount of credit to the extent that the credit increased federal ~~adjusted-gross taxable~~ income.

53.10(1) For tax years beginning on or after January 1, 1977, the amount of credit allowable for federal work opportunity tax credit as provided for in Section 51 of the Internal Revenue Code shall be a deduction from Iowa taxable income to the extent the credit increased income.

53.10(2) For tax periods beginning on or after January 1, 1980, the amount of credit allowable for the federal alcohol and cellulosic biofuel fuels credit as provided for in Section 40 of the Internal Revenue Code shall be a deduction from Iowa taxable income to the extent the credit increased income.

This rule is intended to implement 2011 Iowa Code Supplement section 422.35 as amended by ~~1997~~ 2012 Iowa Acts, Senate File ~~429~~ 2328.

ITEM 19. Amend paragraph **53.11(3)“b”** as follows:

b. The term “*physical or mental impairment*” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

ITEM 20. Amend rule **701—53.11(422)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code sections 16.1 and Supplement section 422.35 as amended by 2001 2012 Iowa Acts, House Files 287 and 759 Senate File 2247.

ITEM 21. Rescind and reserve subrule **55.3(6)**.

ITEM 22. Amend rule **701—55.3(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.73 as amended by 1998 2012 Iowa Acts, Senate File 2357 2328.

ITEM 23. Amend subparagraph **56.5(2)“a”(3)** as follows:

(3) ~~An~~ For tax years beginning prior to January 1, 2012, an amount equal to 90 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. For tax years beginning on or after January 1, 2012, an amount equal to 100 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. The net income so determined shall be placed on an annual basis by multiplying it by 12, and dividing the resulting amount by the number of months in the taxable year for which the net income was so determined.

ITEM 24. Amend rule **701—56.5(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.88 as amended by 1995 Iowa Acts, chapter 83, and 2011 Iowa Code Supplement section 422.89 and 422.90 as amended by 2012 Iowa Acts, Senate File 2328.

ITEM 25. Amend subrule 57.1(2) as follows:

57.1(2) ~~The term “financial institution” as used in division V of Iowa Code chapter 422 and in 701—Chapters 57 to 61 includes an Iowa chartered bank, a nationally chartered bank having its principal office in Iowa, a trust company, a federally chartered savings and loan association, a financial institution chartered by the federal home loan bank board, an association incorporated or authorized to do business under Iowa Code chapter 534 or a production credit association.~~

Effective June 1, 1989, the term “financial institutions institution” as used in division V of Iowa Code chapter 422 and in 701—Chapters 57 to 61 includes an Iowa chartered bank, a state bank chartered under the laws of any other state, a nationally chartered bank, a trust company, a federally chartered savings and loan association, a non-Iowa chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association, an association incorporated or authorized to do business under Iowa Code chapter 534 or a production credit association.

Effective July 1, 2012, the term “financial institution” as used in division V of Iowa Code chapter 422 and in 701—Chapters 57 to 61 includes an Iowa chartered bank, a state bank chartered under the laws of any other state, a nationally chartered bank, a trust company, a federally chartered savings and loan association, a non-Iowa chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association or a production credit association.

Unincorporated privately held financial institutions are exempt from the franchise tax filing requirements.

ITEM 26. Amend rule **701—57.1(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.61 as amended by 2012 Iowa Acts, Senate File 2202.

ITEM 27. Amend paragraph **59.8(3)“b”** as follows:

b. The term “*physical or mental impairment*” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

ITEM 28. Amend rule **701—59.8(422)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~sections 16.1(36), 422.35 and 422.61~~ section 16.1 and 2011 Iowa Code Supplement section 422.35 as amended by 2012 Iowa Acts, Senate File 2247.

ITEM 29. Rescind and reserve subrule **60.3(6)**.

ITEM 30. Amend rule **701—60.3(422)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~sections~~ section 422.66 and section 422.73 as amended by 1998 2012 Iowa Acts, Senate File 2357 2328.

ITEM 31. Amend subparagraph **61.5(2)“a”(3)** as follows:

(3) ~~An~~ For tax years beginning prior to January 1, 2012, an amount equal to 90 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. For tax years beginning on or after January 1, 2012, an amount equal to 100 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. The net income so determined shall be placed on an annual basis by multiplying it by 12, and dividing the resulting amount by the number of months in the taxable year for which the net income was so determined.

ITEM 32. Amend rule **701—61.5(422)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code ~~sections~~ section 422.88, and 2011 Iowa Code Supplement section 422.89 and 422.90 as amended by 2012 Iowa Acts, Senate File 2328.

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